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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/626,092	07/24/2003	Patrick Betschmann	7099US01	4540		
23492	7590	08/24/2004	<table border="1"><tr><td>EXAMINER</td></tr><tr><td>DESAI, RITA J</td></tr></table>		EXAMINER	DESAI, RITA J
EXAMINER						
DESAI, RITA J						
STEVEN F. WEINSTOCK ABBOTT LABORATORIES 100 ABBOTT PARK ROAD DEPT. 377/AP6A ABBOTT PARK, IL 60064-6008			ART UNIT	PAPER NUMBER		
1625						
DATE MAILED: 08/24/2004						

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/626,092	BETSCHMANN ET AL.	
Period for Reply	Examiner	Art Unit	
	Rita J. Desai	1625	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.			
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status			
1) <input type="checkbox"/> Responsive to communication(s) filed on _____. 2a) <input type="checkbox"/> This action is FINAL . 2b) <input checked="" type="checkbox"/> This action is non-final. 3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.			
Disposition of Claims			
4) <input checked="" type="checkbox"/> Claim(s) <u>1-28</u> is/are pending in the application. 4a) Of the above claim(s) _____ is/are withdrawn from consideration. 5) <input type="checkbox"/> Claim(s) _____ is/are allowed. 6) <input type="checkbox"/> Claim(s) _____ is/are rejected. 7) <input type="checkbox"/> Claim(s) _____ is/are objected to. 8) <input checked="" type="checkbox"/> Claim(s) <u>1-28</u> are subject to restriction and/or election requirement.			
Application Papers			
9) <input type="checkbox"/> The specification is objected to by the Examiner. 10) <input type="checkbox"/> The drawing(s) filed on _____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) <input type="checkbox"/> The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.			
Priority under 35 U.S.C. § 119			
12) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.			
Attachment(s)			
1) <input type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.			
4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____.			

DETAILED ACTION

Election/Restrictions

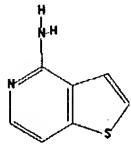
Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-23 in part , drawn to compounds and pharmaceutical compositions wherein R1 is a non-heterocyclic group, R3 is a halogen classified in class 546, 514, subclass 114; 299.
- II. Claims 1-23 in part , drawn to compounds and pharmaceutical compositions wherein R1 is a non-hetero ring, R3 is an aryl, classified in class 546, 514, subclass 114; 299.
- III. Claims 1-23 in part , drawn to compounds and pharmaceutical compositions wherein R1 is a non-heteroring and R3 is a hetero aryl or a hetro group classified in various classes and subclasses . A further election of a single disclosed species is required.
- IV. Claims 1-23 in part , drawn to compounds and pharmaceutical compositions wherein R1 and R3 are different combinations and are classified in various classes and subclasses.
- V. Claims 24-28 , drawn to methods of treating various diseases , classified in class 514 and various subclasses.

The inventions are distinct, each from the other because of the following reasons:

Inventions I- V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions I-IV are drawn to a different core with different R1-R3 variables.

When a preliminary search was done on the core it gave numerous iteration



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BATCH **COMPLETE**

PROJECTED ITERATIONS: 3727 TO 5553

Indicating that their core is not applicants contribution over the prior art .

Thus restriction is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II-V, restriction for examination purposes as indicated is proper.

A telephone call was made to Mr.Steele on 8/3/04 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the

currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Applicants preserve their right to file a divisional on the cancelled non-elected subject matter , without prejudice in due course.

If applicant 's traverse on the grounds that the inventions are not patentably distinct, applicants should submit evidence or identify such evidence now of record showing the groups to be obvious variants or clearly admit on the record that this is the case. In either instance if the examiner finds one of the inventions unpatentable over the prior art , the evidence or admission may be used in a rejection under 35 USC 103 of the other invention.

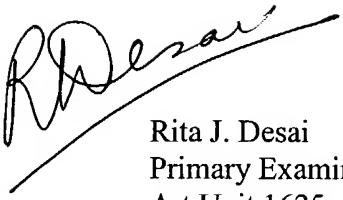
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rita J. Desai whose telephone number is 571-272-0684. The examiner can normally be reached on Monday - Friday,9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

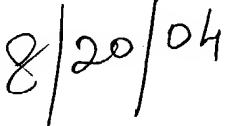
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Rita J. Desai
Primary Examiner
Art Unit 1625

R.D.
August 20, 2004


8/20/04